



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

PLAINS MEMORIAL HOSPITAL

Respondent Name

SERVICE LLOYDS INSURANCE CO

MFDR Tracking Number

M4-14-1958-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

MARCH 4, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Carrier denied Pro Fee for sedation, Please see Critical Access Letter attached. Also denied Supplies and Facility Charges for Sedation."

Amount in Dispute: \$1,062.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|-------------------|------------------------------|-------------------|------------|
| November 11, 2013 | Hospital Outpatient Services | \$1,062.00 | \$0.00 |

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, reimbursement guidelines for medical services provided in an outpatient acute care hospital on or after March 1, 2008.
3. 28 Texas Administrative Code §134.1 effective March 1, 2008, 33 *Texas Register* 626, sets forth general provisions related to medical reimbursement.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- B15-Procedure/Service is not paid separately.
 - RN-Not paid under OPPS: services included in APC rate.
 - W3-Appeal/Reconsideration.
6. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on March 12, 2014. Per 28 Texas Administrative

Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Issues

1. Is the requestor classified as a Critical Access Hospital (CAH)?
2. Is the value of the disputed services included in the APC rate?
3. What is Medicare's reimbursement policy for CAH?
4. What is the DWC reimbursement methodology applicable to this dispute?
5. Is the requestor entitled to reimbursement?

Findings

1. According to Medicare, a hospital must meet one of the following criteria to be classified/reclassified as a Critical Access Hospital (CAH):
 - the hospital is located in a non-MSA county; or
 - the hospital is located in a census tract considered rural under the Goldsmith Modification; or
 - the hospital is treated as rural by the State through a statutory or regulatory provision adopted by the State.According to Medicare NPI Registry, Plains Memorial Hospital in Dimmitt, TX is classified as a CAH.
2. The issue in dispute is whether the value of the disputed services is included in the APC rate. The requestor listed the services in dispute as: revenue code 240, 271, 272 for supplies; 370/99144, 370/99145, 636/J2250, 636/J2270, 981/99133, and 981/99145.

28 Texas Administrative Code §134.403(d), states "For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date of service is provided with any additions or exceptions specific in this section."
3. Per Medicare policy, Critical Access Hospitals are not subject to the Hospital Outpatient Prospective Payment System; therefore, the respondent's denial based upon the disputed services being packaged into the APC rate is not supported.
4. Medicare policy indicates that there are two methods of reimbursement for CAH services:
 - The Standard Payment Method – CAH facility services are paid at 101 percent of reasonable costs.
 - The Optional Payment Method – CAH facility services are paid a reasonable cost-based facility service plus 115 percent fee schedule payment for professional services.
5. Pursuant to 28 Texas Administrative Code §134.403(e)(1-3), "Regardless of billed amount, reimbursement shall be: (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code 413.011; or (2) if no contracted fee schedule exists that complies with Labor Code 413.011, the maximum allowable reimbursement (MAR) amount under subsection (f), including any applicable outlier payment amounts and reimbursement for implantables; (3) If no contracted fee schedule exists that complies with Labor Code 413.011, and an amount cannot be determined by application of the formula to calculate the MAR as outlined in subsection (f) of this section, reimbursement shall be determined in accordance with 134.1 of this title (relating to Medical Reimbursement)."

The submitted documentation does not support that a contractual agreement for the disputed services exists; therefore, 28 Texas Administrative Code §134.403(e)(1) does not apply.

28 Texas Administrative Code §134.403(f), "The reimbursement calculation used for established the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*."

According to Medicare policy, CAHs are not subject to the Hospital Outpatient Prospective Payment System; therefore, 28 Texas Administrative Code §134.403(e)(2) does not apply.

Because 28 Texas Administrative Code §134.403(e)(1) and (2) does not apply, reimbursement for the

disputed services is subject to §134.403(e)(3).

6. 28 Texas Administrative Code §134.1, which requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection 134.1(f), which states that "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

28 Texas Administrative Code §133.307(c)(2)(o) requires the provider to submit with the request for dispute resolution, "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) or §134.503 of this title (relating to Pharmacy Fee Guideline) when the dispute involves health care for which the division has not established a maximum allowable reimbursement (MAR) or reimbursement rate, as applicable." Review of the submitted documentation finds that:

- The requestor did not submit documentation to support that additional payment of \$1,062.00 is fair and reasonable reimbursement.
- The requestor does not discuss or explain how \$1,062.00 supports the requestor's position that the amount sought is a fair and reasonable reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

06/26/2014

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.